



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5

DA 10-691
Released: April 26, 2010

**ICONNECT WHOLESALE, INC., D/B/A TELECUBA, REQUESTS A WAIVER OF THE
INTERNATIONAL SETTLEMENTS POLICY AND BENCHMARK RATE FOR FACILITIES-
BASED TELECOMMUNICATIONS SERVICES WITH CUBA**

**IB DOCKET NO. 10-95
ISP-WAV-20100412-00007**

PLEADING CYCLE ESTABLISHED

Comments Due: May 26, 2010
Reply Comments Due: June 10, 2010

I. INTRODUCTION

Iconnect Wholesale, Inc., d/b/a TELECUBA (“TeleCuba”), requests a waiver of the International Settlements Policy (“ISP”)¹ and the benchmark rate under the 1997 Benchmarks Policy (“Benchmarks Policy”)² for facilities-based telecommunications services between the United States and Cuba (“Petition”). TeleCuba requests that the Commission grant a waiver of the ISP to have a settlement rate with its correspondent in Cuba, Empresa de Telecomunicaciones de Cuba, S.A. (“ETESCA”) of \$0.84 per minute, and to increase the benchmark rate for facilities-based service to Cuba from \$0.19 per minute to \$0.84 per minute for a period of three years.³ TeleCuba states that due to the amount of work that is required to establish services, anything less than three years may not make economic sense.⁴

¹ The ISP governs how U.S. carriers negotiate with foreign carriers for the exchange of international traffic in order to prevent foreign carriers with market power from discriminating or using threats of discrimination or other anticompetitive actions, against competing U.S. carriers as a strategy to obtain pricing concessions regarding the exchange of international traffic. *See International Settlements Policy Reform: International Settlement Rates*, IB Docket Nos. 02-234 and 96-21, First Report and Order, 19 FCC Rcd 5709 (2004), 47 C.F.R. § 64.1002.

² The Commission’s 1997 *Benchmarks Order* established benchmark rates U.S. carriers are permitted to pay foreign carriers for terminating traffic. The goal of the Benchmarks Policy has been to reduce substantially above-cost settlement rates paid by U.S. carriers to foreign carriers for termination of international traffic. In the Matter of International Settlement Rates, IB Docket No. 96-261, Report and Order, FCC 97-280, 12 FCC Rcd 19806 (1997) (*Benchmarks Order*).

³ Petition at 1.

⁴ *Id.*

TeleCuba claims that a waiver of the proposed settlement and accounting rate is in the public interest since it will allow TeleCuba the ability to reestablish its working relationship with ETESCA and allow for an expansion of telecommunications services between its U.S. customers who are communicating with their friends and relatives in Cuba.⁵ TeleCuba further claims that direct service between the United States and Cuba will reduce post dial delay and latency, resulting in improved call quality.⁶

In April 2009, the President announced changes to the foreign policy of the United States regarding Cuba, including changes meant to increase direct telecommunications between the two countries.⁷ On January 12, 2010, the Commission received a letter from the U.S. Department of State (“State Department”) detailing new policy guidance on licensing the provision of telecommunications service between the United States and Cuba.⁸ The State Department provided new guidance in light of the Presidential announcement that changes to the U.S. Cuba policy need to be made to facilitate greater contact between separated family members in the United States and Cuba and increase the flow of information to Cuban people, including through greater telecommunications links.⁹ With regard to the ISP and Benchmarks Policy, the State Department guidance is that:

The Commission should apply its International Settlements Policy (ISP) and the appropriate benchmark settlement rate with respect to proposals for the provision of telecommunications services to Cuba; however, in implementing this recommendation, the Commission should be prepared, to the extent necessary, to grant waivers reasonably limited in duration to enable carriers within its jurisdiction to provide telecommunications service between the United States and Cuba.¹⁰

⁵ *Id.* at 2.

⁶ *Id.* TeleCuba asserts that the current telecommunications service, via third country providers, terminates 100% of the U.S.-Cuba traffic at a higher cost and lower quality due to operational overhead of the third party carriers and the number of “hops” that the signal must take to reach its final destination.

⁷ See Memorandum for the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce; Subject: Promoting Democracy and Human Rights in Cuba (available at <http://www.whitehouse.gov/the-press-office/memorandum-promoting-democracy-and-human-rights-cuba>). See also Fact Sheet: Reaching Out to the Cuban People (available at <http://www.whitehouse.gov/the-press-office/fact-sheet-reaching-out-cuban-people>).

⁸ Letter from Ambassador Philip Verveer, U.S. Coordinator for International Communications and Information Policy, U.S. Department of State, to Julius Genachowski, FCC Chairman, dated January 12, 2010 (“State Department Letter”). See Modification of Process to Accept Applications for Service to Cuba and Related Matters, Public Notice, DA 10-112 (IB rel. Jan. 21, 2010).

⁹ According to the letter, the President directed the Secretaries of the Treasury and Commerce, in consultation with the Secretary of State, to increase the flow of information to the Cuban people, including through greater telecommunications links. In September 2009, the Departments of Treasury and Commerce published new regulations and the Department of State, based on those regulations, developed policy guidance outlined in its January 12, 2010 Letter to the Commission. See State Department Letter.

¹⁰ *Id.*

II. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,¹¹ the Commission may adopt modified or more stringent ex parte procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose ex parte procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹²

Parties making oral ex parte presentations are directed to the Commission's statement reemphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.¹³ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁴ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹⁵ We urge parties to use the Electronic Comment Filing System ("ECFS") to file ex parte submissions.¹⁶

III. GENERAL INFORMATION

The waiver petition referenced herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any waiver petition if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

Interested parties must file comments no later than **May 26, 2010**. Reply comments must be filed no later than **June 10, 2010**. All filings concerning matters referenced in this Public Notice should refer to **DA 10-691** and **IB Docket No. 10-95** as well as **ISP-WAV-20100412-00007**. Persons and entities that file comments become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts.

Under the Commission's current procedures for the submission of filings and other documents,¹⁷ submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission.

¹¹ 47 C.F.R. § 1.1200(a).

¹² *Id.* § 1.1206.

¹³ See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

¹⁴ See 47 C.F.R. § 1.1206(b)(2).

¹⁵ *Id.* § 1.1206(b).

¹⁶ See discussion *infra* Part IV.

¹⁷ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).

- **If filed by ECFS,**¹⁸ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to:
 - (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile);
 - (2) James Ball, Policy Division, International Bureau, at james.ball@fcc.gov or (202) 418-2824 (facsimile);
 - (3) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov or (202) 418-2824 (facsimile); and
 - (4) Jodi Cooper, Policy Division, International Bureau, at jodi.cooper@fcc.gov or (202) 418-2824 (facsimile).
- Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The waiver petition and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The waiver petition is also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

¹⁸ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).

- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact David Krech, Policy Division, International Bureau, at (202) 418-7443, or Jodi Cooper, Policy Division, International Bureau, at (202) 418-2064.

-FCC-